

### **RESPONSE TO EXAMINERS COMMENTS**

The following comments are presented in response to the Examiner's amendments. The paragraphs are numbered with the same number used in the office action to which the comment applies.

*3. Claims 17 and 19 are objected to because of the following informalities: Claim 17 depends from canceled claim 6, In claim 17 "the corner bead" and "its side extensions" lack antecedent (sic) basis, In Claim 19 it is unclear which corner bead is being referenced by the language "the corner bead member" as plural members are defined in claim 15, and In claim 19 "its side extensions" lack antecedent basis. Also note that if claim 17 were amended to depend from claim 15 then claims 17 and 19 would be duplicates. Appropriate correction is required.*

#### **Response:**

Claim 17 as amended now depends from claim 15 which recites "corner bead members"; whereby the antecedent basis is provided. The lack of antecedent basis for "side extensions" is respectfully traversed. On page

19 of the specification, at lines 14-20 there is described the various parts of a commercial corner bead one of which is the side extension formed by the wires 276 and 278. Therefore, a corner bead by definition has side extensions.

Claim 19 has been cancelled

*5. Claims 14-17 and 19 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 1 of U.S. Patent No. 6,591,566 to Rodlin in view of U.S. Patent 5,625,986 to Mansfield.*

**Response:**

A terminal disclaimer is attached which avoids the rejection.

*7. Claim 20 is rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent 2,012,203 to Peterson. Peterson provides bending a sheet metal member into a channel having a top 3, sides 8 and integral corner aids 7 and then applying at least a first layer of cementitious material 12 using aids 7 as guides.*

**Response:**

Applicant respectfully traverses the 102(b) rejection of Claim 20 in view of US Patent 2,012,203 to Peterson.

The standard for rejection under 35 USC 102(b) is that the reference must teach every aspect of the claimed invention either implicitly or explicitly. Any feature not directly taught must be inherently present. MPEP 706.02 (IV).

The invention of claim 20 as amended is an exterior architectural feature attached to an exterior wall. It is constructed as a hollow channel formed from a welded wire structure to form a hollow channel and has corner aids integrally formed in it as part of the welded wire structure. No other structural support member is used.

It is submitted that Peterson does not teach this structure.

Peterson teaches a corner bead that will form a guide for a chamfered corner. He does not teach the construction of an architectural feature projecting beyond the plane of an exterior wall.

Peterson clearly states that the guides are mounted on the edge of a support post. Claim 1 of the '203 patent states. "corner bead including a central angle plate having diverging wings...wings projecting outwardly at substantially perpendicular to said outer faces of the post...". When this claim is view in conjunction with the drawings, it is clear that the guide would exist on an edge of a post, typically a support post which is perpendicular to the base of the building.

Considering the foregoing, it is submitted that the rejection under 102(b) is inappropriate.

8. Claims 14, 20, and 22 are rejected under 35 U.S.C. 102(a) as being anticipated by U.S. Patent to Mansfield et al.

*The effective filing date of the instant claims is 11/10/97 with the filing of application SN 08/967055. The examiner fails to find support for the instant subject matter in the earlier filed applications.*

*Mansfield teaches prefabricated relief forms formed from both spot welded woven wire mesh having paper backings 52,69,80,82,89 (See for example figure 9) and other materials such as expanded metal and the like formed with integral corner aids 77 (see for example figure 11).*

**Response:**

Applicant respectfully traverses the assertion of a 102(a) rejection of Claims 14, 20, and 22 as being anticipated by Mansfield.

Claim 14 recites the prefabricated relief form made from woven wire mesh (chicken wire) bent to define a channel; paper backing is fixed to the channel interior; absent any other structural support member. In the past these architectural trim members were made of wood and covered with lath and then plastered over. This was expensive and had problems with water getting to the wood. More recently foam has been tried but it is unsatisfactory for various reasons including being degraded by water. The

invention of claim 14 creates a relief form that can be used as an exterior architectural trim on an exterior wall using the woven wire mesh alone to define the trim shape and to provide its structural strength. The “woven wire mesh” used in claims 14, is defined in the specification as “chicken wire”.

The Mansfield patent teaches three embodiments using three different types of support materials. None of them is woven wire mesh.

A form illustrated in Figs 2-7 is sheet metal, not woven wire mesh.

A form illustrated in Fig 8 uses metal flanges 54 and columns of weave wire that are looped together; but not in the way chicken wire is made to define woven wire mesh as claimed. The loops of wire are attached to the metal flanges such as by welding. Also straight wires are attached by welding to the loops of weave wires. Although additional spot welding is mentioned at col.5, line 56, its meaning is too obscure to understand what parts are spot welded together. In any event it is not the structure recited in Claim14.

Yet another form is shown in Figs 10-13 made of expanded metal. This is different from Claim14 which recites woven wire mesh.

Claim 20 employs welded wire bent to form the hollow channel shape to make an architectural feature applied to an exterior wall. It uses no other

structural member. It has corner aids (the terms corner aid and corner bead are regarded as the same) integrally formed by the welded wire structure. It has a plurality of layers of cementitious material.

Mansfield shows integral corner beads in his sheet metal form of Figs 1-7 and in his expanded metal form of Figs 10-13. But in his form made of weave wires (however fixed together), Mansfield does not teach an integral corner aid. The specification of the Mansfield patent states:

“The FIGS. 8 and 9 are embodiments are special manufactures, wherein **only one coating of plaster or stucco is applied**, and in which, depth **measuring means are shown as being absent...**” (Col 8, Line 33-36). There is no edge guide or bead (see Mansfield’s 77).

The Mansfield patent does teach a wire mesh corner aid, but, only when the corner aid is separately fabricated and attached by crimping or spot welding. (see Col 8, Line 36-45).

The use of a separate corner aid attached to the form member is disclosed in the 08/222,826 filed on April 5, 1994 (since abandoned). The 08/222,826 states:

“The method of attachment may be spot welding, or bonding with an adhesive such as hot glue” (page 19, line 18-19).

Rodlin was a co-inventor of the 08/222,826 application and this current application benefits from the previous disclosure.

It is submitted that wherein Mansfield teaches integral corner beads on his sheet metal and expanded metal forms; but distinctly avoids them in his weave wire form; because it only takes one layer of plaster; he teaches away from the presently claimed structure in claim 20 in which integral corner beads are used in a welded wire form.

Claim 22 has been cancelled and its content incorporated into claim 20.

It is therefor submitted that Mansfield does not anticipate claims 14 and 20.

*10. Claim 21 is rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent 5,625,986 to Mansfield, et. al.*

*Mansfield provides each of the elements/steps of this claim except for specifying that the backing papers 52,69,80,82, 89 are mounted/affixed/or applied with hot glue. Mansfield only states that the backing are mounted or suitably affixed. The examiner takes Official Notice that one of the ordinary skill in the art would have readily recognized hot glue as a suitable means for mounting or affixing the backings of the Mansfield to the channels for its inherent bonding properties and its availability. As such it would have been*

*obvious at the time of the invention to (one) having ordinary skill in the art to have used hot glue as the means for affixing or mounting.*

**Response:**

Applicant respectfully traverses the Examiner's taking Official Notice that one of the ordinary skill in the art would have readily recognized hot glue as a suitable means for mounting or affixing backings to the channels.

Official Notice without documentary evidence to support an examiner's conclusion is permissible in some circumstances. Official notice unsupported by documentary evidence should only be taken by the examiner where the facts asserted to be well-known, or to be common knowledge in the art are capable of instant and unquestionable demonstration as being well known. MPEP 2144.03. The examiner must present evidence that using a hot glue gun to affix backings is capable of 'instant and unquestionable evidence as to defy dispute'. *In re Ahlert*, 424 F.2d 1088, 1091, 165 USPQ 418, 420 (CCPA 1970).

Mansfield does not suggest he intended to use a hot glue gun to mount the backings shown in figures 8,9,10, 11, and 12. The patent of Mansfield states "Backing 89 is suitably fixed, across the span of manufacture 81, to and under the lengths 82 of strands of the manufacture 81, **to and under** the lengths 82 of strands of the manufacture 81 and which reinforces the




backing 89 during the application of wet cement or plaster to the manufacture 81.” This suggests that Mansfield intended the backing paper to be held in place by compression as opposed to using a glue gun.

In addition, in applicant’s parent application filed on April 5 1994, now patent number 5,685,116, the use of hot glue to attach the paper to the metal lath is taught (Col. 8, line 29-31). This therefore predates Mansfield insofar as the use of hot glue to hold the paper to the wire (see also prior comment re application S.N.. 08/222,826).

The applicant submits that the foregoing remarks when considered traverse the rejections and the amendments cure the rejections and objections. It is requested that the application be reconsidered. A notice of allowance is respectfully solicited.

Respectfully submitted,

A handwritten signature in cursive script, reading "Lawrence S. Cohen", written over a horizontal line.

Lawrence S. Cohen, Esq.

Date: January 14, 2005

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